

### **REMARKS / ARGUMENTS**

The present application includes pending claims 1-31, all of which have been rejected. By this Amendment, claims 1-31 have been amended, as set forth above, to further clarify the language used in these claims and to further prosecution of the present application. The Applicant respectfully submits that the claims define patentable subject matter.

Initially, the Applicant notes that a goal of patent examination is to provide a prompt and complete examination of a patent application.

It is essential that patent applicants obtain a prompt yet complete examination of their applications. Under the principles of compact prosecution, each claim should be reviewed for compliance with every statutory requirement for patentability in the *initial review* of the application, even if one or more claims are found to be deficient with respect to some statutory requirement. Thus, Office personnel *should* state *all* reasons and bases for rejecting claims in the *first* Office action. Deficiencies should be explained clearly, particularly when they serve as a basis for a rejection. Whenever practicable, Office personnel should indicate how rejections may be overcome and how problems may be resolved. A failure to follow this approach can lead to unnecessary delays in the prosecution of the application.

See Manual of Patent Examining Procedure (MPEP) § 2106(II). As such, the Applicant assumes, based on the goals of patent examination noted above, that the present Office Action has set forth "all reasons and bases" for rejecting the claims.

The Specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter. Claims 1-7, 9-17, 19-27, and 29-31 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent Publication No. 2002/0104099, issued to Novak (hereinafter, Novak). Claims 8, 18, and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,868,452, issued to Eager, et al. (hereinafter, Eager). The Applicant respectfully traverses these rejections at least for the reasons previously set forth during prosecution and at least based on the following remarks.

#### **I. Information Disclosure Statement**

The Examiner states the following in page 2 of the Office Action:

The listing of references in the specification is not a proper information disclosure statement. 37 CFR 1.98(b) requires a list of all patents, publications, or other information submitted for consideration by the Office, and MPEP § 609.04(a) states, "the list may not be incorporated into the specification but must be submitted in a separate paper." Therefore, unless the references have been cited by the examiner on form PTO-892, they have not been considered. Incorporated reference (Attorney Docket No. 14276US02) is disclosed in paragraph [36] of the specification.

The Applicant points out that it is believed that none of the references cited in the cross-reference section (or any other section that incorporates an application by reference) of the present application qualify as prior art to the present application. In instances where a cross-reference section was used (or

any other section which incorporates an application by reference), the Applicant points out that the Examiner was simply being notified of applications that may be considered related to the present application (e.g., including at least one common inventor and/or a common disclosure with the present application). Therefore, it is believed that none of the references cited in the cross-reference section (or in any other section that incorporates by reference) should be cited in an IDS.

## **II. Specification**

The Specification was objected to for allegedly failing to provide proper antecedent basis for the claimed subject matter. The Applicant respectfully disagrees and points out that the various types of processors stated in claim 31 are stated in paragraph 87 of the specification. In addition, the Applicant submits that it is known in the art what the terms "media peripheral", "computer", and a "storage system" mean. Therefore, the Applicant submits that there is no need for further clarification of the terms "media peripheral processor", "computer processor", and a "storage system processor." With regard to the terms "media processing system (MPS)" and "media exchange software (MES)", the Applicant submits that the specification is sufficiently informative as to the meaning of these terms. For example, the Examiner is referred to Figures 1A-3 and the corresponding description in paragraphs 31-60 for additional information on what is meant by "media processing system (MPS)" and "media exchange software

(MES)". Obviously, a "media processing system (MPS) processor" and a "media exchange software (MES) processor" would be a processor that performs one or more of the functionalities of a "media processing system (MPS)" and a "media exchange software (MES)", as already described in the specification.

The Applicant respectfully requests that the objections to the Specification be withdrawn.

## **REJECTIONS UNDER 35 U.S.C. § 102**

### **III. Novak Does Not Anticipate Claims 1-7, 9-17, 19-27, and 29-31**

The Applicant first turns to the rejection of claims 1-7, 9-17, 19-27, and 29-31 under 35 U.S.C. 102(b) as being anticipated by Novak. With regard to the anticipation rejections under 102(b), MPEP 2131 states that "[a] claim is anticipated only if **each and every element** as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." See Manual of Patent Examining Procedure (MPEP) at 2131 (internal citation omitted). Furthermore, "[t]he identical invention must be shown in as complete detail as is contained in the ... claim." See id. (internal citation omitted).

**A. Rejection of Independent Claims 1, 11, and 21**

With regard to the rejection of independent claim 1 under 102(b), the Applicant submits that Novak does not disclose or suggest at least the limitation of "wherein said media channel may be pushed from said first geographic location to a second geographic location," as recited by the Applicant in independent claim 1.

The Office Action states the following:

Novak teaches a method of and processor for programming media content in a distributed media network (using STB 152 executing the method of Figure 11 as described in Paragraphs 0078-0080), said method and processor operation comprising: selecting (by way of remote control button 174 described in Paragraph 0073 Lines 7-10) at least one customized media channel established by a user ("synthetic channel" described in Paragraph 0069 Lines 6-10) based on at least one input from said user; identifying at least one of media, data and service (Figure 5 interface 506 as described in Paragraph 0061 Lines 5-8) for said selected at least one customized media channel; and presenting directly in said at least one customized media channel, said identified at least one of media, data and service (see interface of Figure 7 described in Paragraphs 0064 Lines 1-10).

See the Office Action at page 3.

Referring to FIG. 11 of Novak, at block 1116, Novak discloses that the provider 108 streams the media programs to the client terminal (the STB 152) for viewing by the end user. FIG. 11 of Novak, including block 1116, does not disclose presenting a schedule which includes personal and/or broadcast media, in a media guide, and therefore cannot disclose or suggest "selecting at least one customized media channel established by a user". Additionally, Novak, including

all steps in FIG. 11 of Novak, does not disclose or suggest that the communication channel, which includes personal and/or broadcast media, may be pushed from the first geographic location (where the STB 152 is) to a second geographic location. In fact, Novak discloses that media can be uploaded to a server and a network provider may communicate the uploaded media to an end user. Furthermore, with regard to the "synthetic channel" capability described in ¶ 0069, the Applicant points out that Novak's "synthetic channel" acts just like regular television programming – an end user may tune to the programs in the channel and view them like regular television programming.

In this regard, Novak does not disclose or suggest at least the limitations of "selecting at least one customized media channel established by a user" and "wherein said media channel may be pushed from said first geographic location to a second geographic location," as recited by the Applicant in independent claim 1.

Accordingly, independent claim 1 is not anticipated by Novak and is allowable. Independent claims 11 and 21 are similar in many respects to the method disclosed in independent claim 1. Therefore, the Applicant submits that independent claims 11 and 21 are also allowable over the references cited in the Office Action at least for the reasons stated above with regard to claim 1.

**B. Rejection of Dependent Claims 2-7, 9-10, 12-17, 19-20, 22-27, and 29-31**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11 and 21 under 35 U.S.C. § 102(b) as being anticipated by Novak has been overcome and requests that the rejection be withdrawn. Additionally, claims 2-7, 9-10, 12-17, 19-20, 22-27, and 29-31 depend from independent claims 1, 11 and 21, respectively, and are, consequently, also respectfully submitted to be allowable.

The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 1-30.

**IV. The Proposed Combination of Novak and Eager Does Not Render Claims 8, 18, and 28 Unpatentable**

Based on at least the foregoing, the Applicant believes the rejection of independent claims 1, 11, and 21 under 35 U.S.C. § 102(b) as being anticipated by Novak has been overcome and requests that the rejection be withdrawn. Additionally, since the additional cited reference (Eager) does not overcome the deficiencies of Novak, claims 8, 18, and 28 depend from independent claims 1, 11, and 21, respectively, and are, consequently, also respectfully submitted to be allowable at least for the reasons stated above with regard to allowability of claim

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1. The Applicant also reserves the right to argue additional reasons beyond those set forth above to support the allowability of claims 8, 18, and 28.



**CONCLUSION**

Based on at least the foregoing, the Applicant believes that all claims 1-31 are in condition for allowance. If the Examiner disagrees, the Applicant respectfully requests a telephone interview, and requests that the Examiner telephone the undersigned Attorney at (312) 775-8176.

The Commissioner is hereby authorized to charge any additional fees or credit any overpayment to the deposit account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

A Notice of Allowability is courteously solicited.

Respectfully submitted,

Date: 21-JAN-2008

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